

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL  
LEAGUE PLAYERS' CONCUSSION  
INJURY LITIGATION

No. 12-md-2323(AB)  
MDL No. 2323

Individual No. 13-cv-4549

**Second Amended Master  
Administrative Long-Form  
Complaint Against NFL Defendants  
and (if applicable) Bush v. National  
Football League [et al.],  
No. 13-cv-4549**

**IN RE: NATIONAL FOOTBALL  
LEAGUE PLAYERS' CONCUSSION  
INJURY LITIGATION**

**JURY TRIAL DEMANDED**

**OPT OUT PLAINTIFF SHORT FORM COMPLAINT**

**AGAINST NFL DEFENDANTS**

1. Plaintiffs LEWIS BUSH, deceased by his Successor in Interest DEE BUSH; DEE BUSH an individual; DANIELLE BUSH, and individual; LEWIS BUSH, Jr., a minor, by his Guardian ad Litem, ELIZABETH FOX; and MAKAI BUSH, a minor, by her Guardian ad Litem CLEO BUSH (hereinafter "Plaintiffs") bring this civil action as a related action in the matter entitled IN RE: NATIONAL FOOTBALL LEAGUE PLAYERS' CONCUSSION INJURY LITIGATION, MDL No. 2323.

2. Plaintiffs are filing this Short Form Complaint against NFL Defendants as required by this Court's Case Management Order filed July 18, 2017.

3. Plaintiffs opted-out of the Class Action Settlement approved by the Court on May 8, 2015.

4. Plaintiffs incorporate by reference the allegations (as designated below) of the Second Amended Master Administrative Long-Form Complaint Against NFL Defendants, as is fully set forth at length in this Short Form Complaint.

5. Plaintiff's Spouse DEE BUSH is filing this case in a representative capacity as the Successor in Interest for Plaintiff LEWIS BUSH, deceased (as defined in Section 377.11 of the California Code of Civil Procedure), and succeeds to the decedent's interest in the action or proceeding. Copies of the Letters of Administration/Letters Testamentary for a wrongful death claim are annexed hereto if such Letters are required for the commencement of such a claim by the Probate, Surrogate or other appropriate court of the jurisdiction of the decedent.

6. Plaintiff's Spouse, DEE BUSH, is a resident and citizen of San Diego, California, and claims damages as a result of loss of consortium proximately caused by the harm suffered by her Plaintiff husband.

7. Plaintiff's children, DANIELLE BUSH, and individual; LEWIS BUSH, Jr., a minor, by his Guardian ad Litem, ELIZABETH FOX; and MAKAI BUSH, a minor, by her Guardian ad Litem CLEO BUSH, are residents and citizens

of San Diego, California, and claim damages because of the harm suffered by Plaintiff father/decedent.

8. Upon information and belief, the Plaintiff LEWIS BUSH sustained repetitive, traumatic sub-concussive and/or concussive head impacts during NFL games and/or practices. Upon information and belief, Plaintiff suffered from symptoms of brain injury caused by the repetitive, traumatic sub-concussive and/or concussive head impacts the Plaintiff sustained during NFL games and/or practices. Upon information and belief, the Plaintiff's symptoms arose from injuries that are latent and developed and continued to develop over time prior to his death.

9. The original complaint by Plaintiffs in this matter was filed in the Superior Court of the State of California, County of San Diego. If the case is remanded, it should be remanded to the Superior Court of the State of California, County of San Diego.

10. Plaintiffs claim damages as a result of [check all that apply]:

- ☐ Injury to Himself
- ☐ Injury to the Person Represented
- ☒ Wrongful Death
- ☒ Survivorship Action
- ☒ Economic Loss

☒ Loss of Services

☐ Loss of Consortium

11. ~~As a result of the injuries to her husband, Lewis Bush, Plaintiff's Spouse, Dee Bush, suffers from a loss of consortium, including the following injuries:~~

☐ Loss of marital services

☐ Loss of companionship, affection or society

☐ Loss of support

☐ Monetary losses in the form of unreimbursed costs she has had to expend for the health care and personal care of her husband.

12. [Check if applicable] ☒ Plaintiff and Plaintiff's Spouse reserve the right to object to federal jurisdiction.

13. Plaintiff and Plaintiff's Spouse bring this case against the following Defendants in this action [check all that apply]:

☒ National Football League

☒ NFL Properties, LLC

☐ Riddell, Inc.

☐ All American Sports, Inc. (d/b/a/ Riddell Sports Group, Inc.

☐ Riddell Sports Group, Inc.

- ☐ Easton-Bell Sports, Inc.
- ☐ Easton-Bell Sports, LLC
- ☐ EB Sports Corporation
- ☐ RBG Holdings Corporation

14. As to each of the Riddell Defendants references above, the claims asserted are design defect; informational defect; and manufacturing defect.

15. The decedent wore one or more helmets design and/or manufactured by the Riddell Defendants during one or more years decedent played in the NFL.

16. Plaintiff played in [check if applicable] ☒ the National Football League (“NFL”) and/or in [check if applicable] ☐ the American Football League (“AFL”) during the following period of time 1993 to 2002 for the following teams: San Diego Chargers and the Kansas City Chiefs.

17. Plaintiff retired from playing professional football after the 2002 season.

### **CAUSES OF ACTION**

18. Plaintiffs herein adopt by reference the following Counts of the Master Administrative Long-Form Complaint, along with the factual allegations incorporated by reference in those Counts [check all that apply]:

- ☒ Count I (Action for Declaratory Relief – Liability (Against the NFL))
- ☐ Count II (Medical Monitoring (Against the NFL))
- ☒ Count III (Wrongful Death and Survival Actions (Against the NFL))
- ☒ Count IV (Fraudulent Concealment (Against the NFL))
- ☒ Count V (Fraud (Against the NFL))
- ☒ Count VI (Negligent Misrepresentation (Against the NFL))
- ☐ Count VII (Negligence Pre-1968 (Against the NFL))
- ☒ Count VIII (Negligence Post-1968 (Against the NFL))
- ☒ Count IX (Negligence 1987-1993 (Against the NFL))
- ☒ Count X (Negligence Post-1994 (Against the NFL))
- ☒ Count XI (Loss of Consortium (Against the NFL and Riddell Defendants))
- ☒ Count XII (Negligent Hiring (Against the NFL))
- ☒ Count XIII (Negligent Retention (Against the NFL))
- ☐ Count XIV (Strict Liability for Design Defect (Against the Riddell Defendants))
- ☐ Count XV (Strict Liability for Manufacturing Defect (Against the Riddell Defendants))

- ☐ Count XVI (Failure to Warn (Against the Riddell Defendants))
- ☐ Count XVII (Negligence (Against the Riddell Defendants))
- ☒ Count XVIII (Civil Conspiracy/Fraudulent Concealment (Against All Defendants))

19. Plaintiffs assert the following additional causes of action [write in or attach]:

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment as follows:

- A. An award of compensatory damages, the amount of which will be determined at trial;
- B. For punitive and exemplary damages as applicable;
- C. For all applicable statutory damages of the state whose laws will govern this action;
- D. For medical monitoring, whether denominated as damages or in the form of equitable relief;
- E. For an award of attorneys' fees and costs;

- F. An award of prejudgment interest and costs of suit; and
- G. An award of such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: July 27, 2017

THORSNES BARTOLOTTA McGUIRE LLP

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